

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

JEFFREY MOATS,
Plaintiff,

v.

NATIONAL CREDIT UNION
ADMINISTRATION BOARD,
a federal administrative agency;
TODD M. HARPER, KYLE S.
HAUPTMAN, AND RODNEY E.
HOOD, in their official capacity as
Members of the National Credit
Union Administration Board; and
JENNIFER WHANG, in her
official capacity as an
Administrative Law Judge and
Inferior Officer of the United States,
Defendants.

Civil Action No. 3:23-cv-147

Assigned to:
Hon. Jeffrey V. Brown

JOINT STIPULATION OF FACTS

The Parties stipulate and agree as follows:

1. The Defendant members of the National Credit Union Administration (NCUA) Board of Directors are removable by the President at will despite the statutory six-year terms established by Section 102(c) of the Federal Credit Union Act, 12 U.S.C. § 1752a(c).
2. The NCUA Board members understood themselves to be removable at will at the time they made the decision to file the Notice of Charges, Notice of Assessment of Civil Money Penalty, and Notice of Hearing against Plaintiff Jeffrey Moats on April 20, 2023.

3. On March 26, 2021, the Texas Credit Union Department issued a Conservatorship Order placing the Edinburg Teachers Credit Union in conservatorship and appointing the NCUA Board as conservator. The Edinburg Teachers Credit Union was released from conservatorship on January 27, 2023.
4. The Administrative Law Judge Agreement of 2018, attached here as **Exhibit A**, is currently in effect and, other than some minor changes to office space allocations not relevant in this action, has not been modified since it was executed by the parties to the agreement.

DATED: August 3, 2023.

Respectfully submitted,

/s/ Russell Hardin, Jr.
RUSSELL HARDIN, JR.

Attorney-in-Charge
State Bar No. 08972800
Federal I.D. No. 19424

OF COUNSEL:
RUSTY HARDIN & ASSOCIATES, LLP
TERRY D. KERNELL
State Bar No. 11339020
Federal I.D. No. 15074
JOHN MACVANE
State Bar No. 24085444
Federal I.D. No. 2209776
1401 McKinney Street, Suite 2250
Houston, TX 77010
Telephone: (713) 652-9000
Facsimile: (713) 652-9800
rhardin@rustyhardin.com
tkernell@rustyhardin.com
jmacvane@rustyhardin.com

ADITYA DYNAR
Ariz. Bar No. 031583*
MOLLY E. NIXON
N.Y. Bar No. 5023940**
PACIFIC LEGAL FOUNDATION
3100 Clarendon Blvd.
Suite 1000
Arlington, VA 22201
Telephone: (202) 888-6881
Facsimile: (916) 419-7747
ADynar@pacificlegal.org
MNixon@pacificlegal.org

* *Pro Hac Vice* submitted

** admitted *Pro Hac Vice*

Counsel for Plaintiff

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney
General

CHRISTOPHER R. HALL
Assistant Branch Director

/s/ John T. Lewis (with consent)

JOHN T. LEWIS (TX Bar No.
24095074)

*Attorney-in Charge**

Trial Attorney

U.S. Department of Justice

Civil Division

Federal Programs Branch

1100 L Street NW, Rm. 12002

Washington, D.C. 20530

Telephone: (202) 353-0533

Facsimile: (202) 616-8460

john.t.lewis.iii@usdoj.gov

* admitted *pro hac vice*

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2023, a copy of the foregoing was filed electronically via the Court's ECF system, which effects service upon counsel of record.

/s/ Terry D. Kernell
TERRY D. KERNELL
State Bar No. 11339020
Federal I.D. No. 15074